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# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

**OCTOBER TERM, 1883.**

No. ~~971~~ 589

WILLIAM L. WHITE, PLAINTIFF IN ERROR,

*vs.*

SAMUEL C. GREENHOW.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF VIRGINIA.

**FILED SEPTEMBER 22, 1883.**

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1 In the Circuit Court of the United States for the Fourth Judicial Circuit and Eastern District of Virginia.

Richmond, Va., September 4th, 1883.

WILLIAM L. WHITE
*vs.*
SAMUEL C. GREENHOW. } No. 1443.—Trespass.

Be it remembered that on the 26th day of May, 1883, came the plaintiff, by his attorney, and sued out of the clerk's office of the circuit court of the United States for the Eastern District of Virginia a summons against the defendant, which, with the returns thereon, is as follows:

*Summons.*

CIRCUIT COURT OF THE UNITED STATES OF AMERICA, *Eastern District of Virginia.* } *ss:*

The President of the United States of America to the Marshal of the Eastern District of Virginia, greeting:

We command you that you summon Samuel *B.* Greenhow, if he shall be found in your district, to be and appear at the clerk's office of our circuit court of the United States for the Eastern District of Virginia, at rules to be holden at the said clerk's office in the custom house, in the city of Richmond, in the district aforesaid, on the first Monday of June next, to answer
2 unto William L. White in a plea of trespass, to his damage, as he alleges, of six thousand dollars; and have you then and there this writ.

Witness: The Hon. M. R. Waite, Chief Justice of the Supreme Court of the United States of America, at Richmond, this 26th day of May, in the year of our Lord one thousand eight hundred and eighty-three, and of our independence the 107th year.

[SEAL.] M. F. PLEASANTS, *Clerk.*

*Return.*

I accept service of the within writ and consent that this cause may be docketed for trial at the present term of the court.

S. B. WITT,
*Com. Atty., p. d.*

And on the same day, to wit: on the 26th day of May, 1883, the plaintiff, by his attorney, filed in the clerk's office of said circuit court of the United States his declaration against the defendant, which declaration with the endorsement thereon is in words and figures, as follows:

3 *Declaration.*

Circuit Court of the United States for the Eastern District of Virginia.

WM. L. WHITE *vs.* SAMUEL C. GREENHOW.

Plaintiff complains of Samuel C. Greenhow, defendant, for that the plaintiff is a citizen of the State of Virginia and a resident of the city of Richmond, that the plaintiff owns property in said city, and that he was duly and lawfully assessed on said property for the year 1882 with taxes to be paid to the State of Virginia, which taxes, by the laws of said State, were not leviable for prior to the first day of December, 1882, but the same, if not paid prior to said last-named date, were leviable for after said last-named date.

That the defendant is the treasurer of the city of Richmond; and as such, it is made his duty, by the laws of Virginia, to collect all taxes due to the said State, by residents of said city, on property situate and being in said city; that prior to the first day of December, 1882, and many times since said last-

4 named date, the plaintiff has tendered to the defendant, in payment of his said taxes, coupons which were due and past maturity, which bore upon their faces the contract of the State of Virginia that they should be received in payment of all taxes due to said State, and which said coupons were cut from bonds issued by the State of Virginia under the provisions of an act of the General Assembly of the State of Virginia, approved March 30th, 1871, entitled "An act to provide for the funding and payment of the public debt," but that the defendant, on each and every occasion where the plaintiff so tendered the said coupons, refused to receive the same in payment of the plaintiff's taxes.

That on each occasion when the plaintiff so tendered the said coupons he also tendered, as a part of said tender, a small amount of lawful money of the United States, and that the said coupons so tendered and the said money so tendered, amounted, together, to the exact sum due by the plaintiff as aforesaid for said

5 taxes.

That on every occasion when the plaintiff has tendered said coupons and money, since the first day of December, 1882, the defendant has said to the plaintiff that he was forbidden to receive the same by the act of the General Assembly of the State of Virginia, approved January 26th, 1882, entitled "An act to provide for the more efficient collection of the revenue to support government, maintain the public schools, and to pay interest on the public debt." And that unless the plaintiff paid his said taxes in gold or silver coin, United States Treasury notes, or national bank currency, the defendant should proceed to levy upon the plaintiff's property as he is required to do by the 18th

section of the act of the General Assembly of the State of Virginia, approved April 1st, 1879, which act is chapter 60 of the acts of the special session for 1879.

That on the 23d day of May, 1883, the defendant unlawfully and against the will of the said plaintiff entered upon the premises of the plaintiff situate and being in the said city of Richmond, with force and arms and against the will of the
6 plaintiff, and, acting as said treasurer aforesaid, he levied on and forcibly seized and carried away valuable personal property belonging to the plaintiff, which said property was worth at least three thousand dollars, for the purpose of selling the same to pay the plaintiff's taxes.

That on the day when the defendant so levied on the plaintiff's property, and before he did so, the plaintiff again tendered to the defendant the said coupons and money in payment of his said taxes, but the defendant refused to receive the same in payment thereof; and the plaintiff has always been ready and willing up to the moment of said levy to deliver to the defendant the said coupons and money in payment of his said taxes, but the defendant always refused so to receive the same.

That the defendant refused to receive the said coupons and money in payment of the plaintiff's taxes because the said act of January 26th, 1882, entitled "An act to provide for the more efficient collection of the revenue to support government, maintain the public schools, and to pay interest on the public debt,"
7 forbade him so to receive them; and the defendant levied on the plaintiff's said property and carried the same away, because the 18th section of the act of the General Assembly of the State of Virginia, approved April 1st, 1879, entitled "An act to amend and re-enact an act entitled an act prescribing the duties, powers, liabilities, and compensation of certain county officers, providing for the collection of taxes and for the repeal of chapters 37 and 46, code of 1873, approved March 29, 1875, as amended by an act approved March 29, 1876, amending sections 15 and 30, and by an act approved the same day, amending section 47, and by an act approved March 20, 1877, and by an act approved April 2d, 1877, amending the 18th and 20th sections, and by an act approved on the same day amending the 30th section, and by three several acts approved March 12, 1878, amending the 7th, 6th, and 29th sections of said first mentioned act, and to repeal all acts and parts of acts inconsistent herewith," com-
8 manded him so to levy upon the plaintiff's said property.

That by reason of the contract of the State of Virginia, set forth upon the faces of said coupons, the plaintiff had a right to pay his said taxes with said coupons and money, and after he tendered the same to the said treasurer his said taxes were, in point of law, paid and extinguished, and he held the said cou-

pons and money, for the defendant, as his agent in that behalf, thereafter.

That the act aforesaid, which forbade the defendant to receive the plaintiff's coupons in payment of his taxes, and the act aforesaid, which commands the defendant to levy upon the plaintiff's property after he had so tendered said coupons, are repugnant to the Constitution of the United States. That the plaintiff has a right to sue the defendant for the wrongs and injuries committed and inflicted as aforesaid upon him the plaintiff by him the defendant; and that as defendant's justification for said wrongs and injuries, if any he has, depend upon the aforesaid acts of the General Assembly of Virginia, approved January 26th,
9 1882, and April 1st, 1879, his suit arises under the Constitution of the United States.

That the plaintiff is forbidden by the laws of the State of Virginia to sue the defendant for said wrongs and injuries in the courts of the State of Virginia; that by the said levy so made as aforesaid by the defendant upon the plaintiff's property and by taking and carrying away the same and by and through many and divers other wrongs and injuries inflicted on the plaintiff by the defendant whilst he was so as aforesaid on the premises of the plaintiff, the plaintiff hath been damaged six thousand dollars ($6,000), and therefore he brings this suit.

WM. L. ROYALL,
*Attorney for Plaintiff.*

*Endorsement.*

Docketed by consent under rule 8 of this court, to be heard at this term.

M. F. PLEASANTS, *Clerk.*

And on the same day, to wit: on the 26th day of May, 1883, came the defendant, by his attorney, and filed his demurrer to the plaintiff's declaration, which demurrer is in the fol-
10 lowing words:

*Demurrer.*

SAMUEL C. GREENHOW *ads.* WM. L. WHITE.

In the Circuit Court of the United States for the Eastern District of Virginia.

The defendant, Samuel C. Greenhow, comes and says that the plaintiff's declaration is not sufficient in law.

S. C. GREENHOW,
By S. B. WITT,
*Com. Atty., City of Richmond.*

In which demurrer the plaintiff joined.

And on another day, to wit: on the 29th day of May, 1883, the defendant, by his attorney, filed herein a paper of which the following is a copy:

WM. L. WHITE *vs.* SAMUEL C. GREENHOW.

I hereby submit this cause to the court for its decision.

S. B. WITT,
*Com. Atty. for City of Richmond, p. d.*

And now at this day, to wit: at a circuit court of the United States for the Eastern District of Virginia, held at Rich-
11 mond in said district, on the 4th day of September, 1883.

WM. L. WHITE *vs.* SAMUEL C. GREENHOW.

This day came again the parties, by their attorneys, and thereupon the matters of law arising upon the defendant's dumurrer to the plaintiff's declaration being argued, it seems to the court that the matters contained in the plaintiff's declaration are not sufficient in law for the plaintiff to have and maintain his action against the defendant.

Therefore it is considered by the court that the plaintiff take nothing by his bill, but that for his false clamor he in mercy, &c., and that the defendant go thereof without day and recover against the plaintiff his costs by him about his defence in this behalf expended.

HUGH L. BOND, *Ct. Judge.*

12 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judge of the circuit court of the United States for the Eastern District of Virginia, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, between William L. White, plaintiff, and Samuel C. Greenhow, defendant, a manifest error hath happened, to the great damage of the said William L. White, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the eighth (8th) day of October next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further

to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the eighth (8th) day of September, in the year of our Lord one thousand eight hundred and eighty-three.

[SEAL.] M. F. PLEASANTS,
*Clerk of the Circuit Court of the United States for the Eastern District of Virginia.*

Allowed by HUGH L. BOND, *Ct. Judge.*

I, M. F. Pleasants, clerk, hereby certify that a true copy of the above writ of error remains on file in the papers of the cause in my office.

M. F. PLEASANTS, *Clerk.*

13 The United States of America, to Samuel C. Greenhow, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the eighth (8th) day of October next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States for the eastern district of Virginia, wherein William L. White is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this eighth day of September, in the year of our Lord one thousand eight hundred and eighty-three.

[SEAL.] HUGH L. BOND, *Ct. Judge.*

I, M. F. Pleasants, clerk, hereby certify that a true copy of the above citation remains on file in the papers of this cause in my office.

M. F. PLEASANTS, *Clerk.*

14 I hereby acknowledge service of a copy of the within citation, and consent that this cause may be docketed at once in the Supreme Court of the United States, to be heard and decided at the term of that Court, beginning in October, 1883; and since I cannot know what my duties and powers are as collector of State taxes until this cause and others involving similar questions are decided, I earnestly request the Supreme Court of the United States to hear and decide it and them as soon as its convenience will permit it.

September 8th, 1883. S. C. GREENHOW.

STATE OF VIRGINIA, }
*City of Richmond,* } *to wit:*

This day C. M. Ragland personally appeared before me, J. M. Skinner, a notary public for the city of Richmond, and made oath that he is well acquainted with the handwriting of S. C. Greenhow, who is the treasurer of the city of Richmond, and that the foregoing is his signature.

Given under my hand this 14th day of September, 1883.

[SEAL.] J. M. SKINNER, *N. P.*

*Bond.*

Know all men by these presents, that we, William L.
15 Royall and William R. Trigg, are held and firmly bound unto Samuel C. Greenhow in the full and just sum of five hundred dollars, to be paid to the said Samuel C. Greenhow, his certain attorney, executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents.

Sealed with our seals and dated this eighth day of September, in the year of our Lord one thousand eight hundred and eighty-three.

Whereas, lately, at a circuit court of the United States for the Eastern District of Virginia, in a suit depending in said court between William L. White, plaintiff, and Samuel C. Greenhow, defendant, judgment was rendered against the said William L. White; and the said William L. White having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the said judgment in the aforesaid suit, and a citation directed to the said Samuel C. Greenhow citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington the eighth day
16 of October next.

Now, the condition of the above obligation is such, that if the said William L. White shall prosecute said writ of error to effect and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

WM. L. ROYALL, [SEAL.]
W. R. TRIGG, [SEAL.]

Approved by HUGH L. BOND, *Ct. Judge.*

I, M. F. Pleasants, clerk of the circuit court of the United States for the Eastern District of Virginia, hereby certify that the above is a true copy of the bond filed and remaining in the papers of the cause in the said court.

M. F. PLEASANTS, *Clerk.*

17 And on another day, to wit: on the fifth day of September, 1883, came the plaintiff by his attorney and filed his assignment of error and prayer for reversal, as follows:

Circuit Court of the United States for the Eastern District of Virginia.

WILLIAM L. WHITE *vs.* SAMUEL C. GREENHOW.

*Assignment of Error and Prayer for Reversal.*

The plaintiff assigns for error the judgment of the court sustaining the defendant's demurrer to the plaintiff's declaration, and giving judgment against the plaintiff.

The plaintiff prays for a reversal of this judgment.

WILLIAM L. WHITE.
By WM. L. ROYALL,
*His Attorney.*

18 UNITED STATES OF AMERICA, *Eastern District of Virginia.* } *ss:*

I, M. F. Pleasants, clerk of the circuit court of the United States for the eastern district of Virginia, hereby certify that the foregoing is a true and complete transcript of the record and proceedings of the cause therein named, as the same appears on file and record in my office.

In testimony whereof, I have hereto set my hand and affixed the seal of said court, at Richmond, this 14th day of September, 1883.

[SEAL.] M. F. PLEASANTS, *Clerk.*

Endorsement on cover: E. Virginia C. C. U. S. No. 971. William L. White, Plaintiff in Error, *vs.* Samuel C. Greenhow. Filed 22d September, 1883.